ಶ್ರೀ ಎಂ. ಎನ್. ರಾಮಣ್ಣ.—ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್ ಸ್ವಾಮಿ: ಈ ಸಭೆ 31 ನೇ ತಾರೀಖಿಗೆ ಮುಗಿಯಬೇಕಾಗಿತ್ತು. ಎಲ್ಲಿಯ ತನಕ ನಡೆಯುತ್ತದೆ ?

ಎರಡನೆಯದು ಕಾರ್ಯಕಲಾಪ ಸಲಹಾ ಸಮಿತಿಯ ವರದಿಯನ್ನು ಈ ಸಭೆ ಅಂಗೀಕರಿಸಿರುವ ಪ್ರಕಾರ ಈ ಮಸೂದೆಗೆ ಕೊಟ್ಟಿರುವ ಕಾಲ 2 ಗಂಟೆ. ಅದಕ್ಕಿಂತ ಹೆಚ್ಚು ಕಾಲವಾಗಿದೆ. ಪ್ರತಿಯೊಂದು ಮಸೂದೆಯ ಮೇಲೂ ಕಾಲವನ್ನು ಈ ರೀತಿ ಕೆಚ್ಚಾಗಿ ತೆಗೆದುಕೊಂಡರೆ ಕಾರ್ಯಕಲಾಪ ಸಲಹಾ ಸಮಿತಿಯಲ್ಲಿ ತೀರ್ಮಾನವಾಗಬೇಕಾದ್ದು ಅವಶ್ಯಕವಿಲ್ಲ. ಈ ಸಭೆಯಲ್ಲಿಯೇ ಕುಳಿತು ಕೊಂಡು ನಾವು ತೀರ್ಮಾನ ಮಾಡುಬಹುದು. ಆದುದರಿಂದ ಕಾರ್ಯಕಲಾಪ ಸಲಹಾ ಮಂಡಲ ಮಾಡಿರುವ ತೀರ್ಮಾನದ ಪ್ರಕಾರವಾಗಿ ನಡೆಸುತ್ತೀರಾ ಅಥವಾ ಸಭೆಯಲ್ಲಿಯೇ ತೀರ್ಮಾನ ಮಾಡಿ ನಡೆಸುತ್ತೀರಾ ? ಇದರ ಬಗ್ಗೆ ಅಧ್ಯಕ್ಷರು ರೂಲಿಂಗ್ ಕೊಡಬೇಕು.

Mr. SPEAKER.—All the hon. members should try to follow the Report of the Businese Advisory Committee as adopted by the House, and the discussion on a particular issue should not go beyond the time fixed. The point raised by the hon. member is correct and I uphold the Point of order. Let us follow the recommendations of the Business Advisory Committee accepted by the House for the transaction of the business.

ಶ್ರೀ ರಾಮಕೃಷ್ಣ ಹೆಗಡೆ.—ನಾನು ಈಗ ಮಾನ್ಯ ಗೋಪಾಲಗೌಡರು ಹೇಳಿದ ವಿಷಯಗಳಿಗೆ ಉತ್ತರ ಕೊಡುತ್ತ ಹೋದರೆ ಅರ್ಧ ಗಂಟೆ ಆಗಬೇಕು. ಆದರೆ ಇಷ್ಟು ಹೇಳುತ್ತೇನೆ. ಮಹಾತ್ಮ ಗಾಂಧೀಯವರ ಹೆಸರನ್ನು ಈ ಸಂದರ್ಭದಲ್ಲಿ ತರತಕ್ಕುದು ಅಪ್ರಸ್ತುತ. ಪಾನನಿರೋಧಕ್ಕೂ, ಈ ಕಾಯಿದೆಗೂ ಸಂಬಂಧವಿಲ್ಲ. ಮತ್ತು ಯಾರಾದರೂ ಕಂಟ್ರಾಕ್ಟರಿಗೆ ಅಥವಾ ಕಂಟ್ರಾಕ್ಟರ ಸಮೂಹಕ್ಕೆ ಸಹಾಯವಾಗಬೇಕು ಎನ್ನುವ ಉದ್ದೇಶದಿಂದ ಈ ತಿದ್ದುಪಡಿಯನ್ನು ತಂದಿದೆ ಎಂದು ಹೇಳುವುದು ಸತ್ಯಕ್ಕೆ ದೂರವಾದುದು. ಇದರಲ್ಲಿ ಕಂಟ್ರಾಕ್ಟರ ಹಿತವಾಗುತ್ತದೆಯೋ ಇಲ್ಲವೋ ಎನ್ನುವುದು ನಮಗೆ ಮಹತ್ವದಲ್ಲ. ಆದರೆ ನಮ್ಮ ಮುಂದೆ ಇರತಕ್ಕುದು ಕಳ್ಳಭಟ್ಟಿ ಅಕ್ರಮವಾಗಿ ಸಾರಾಯಿ ತಯಾರು ಮಾಡಿ ಮಾರುವುದರಿಂದ ಜನರ ಆರೋಗ್ಯಕ್ಕೆ ಹಾನಿಕರವಾಗುವುದಲ್ಲದೆ ನಮ್ಮ ಸರ್ಕಾರಕ್ಕೆ ಅದರಿಂದ ನಷ್ಟವಾಗುತ್ತದೆ. ಅದನ್ನು ತಡೆಗಟ್ಟುವುದಕ್ಕೋಸ್ಕರ ಮುಖ್ಯವಾಗಿ ಇದನ್ನು ತಂದಿರುವ ಉದ್ದೇಶವಾಗಿದೆ. ಇದಕ್ಕಿಂತ ಹೆಚ್ಚು ಹೇಳಬೇಕಾದ ವಿಚಾರವೇನೂ ಇಲ್ಲ.

Mr. SPEAKER.—The question is :

"That the Mysore Excise (Amendment) Bill, 1970, as amended, be passed."

The motion was adopted.

Mysore Land Reforms (Amendment) Bill, 1970.

(*Motion to Consider*)

Sri H. V. KOUJALGI (Minister for Revenue).—Sir, I move :

"That the Mysore Land Reforms (Amendment) Bill, 1970, be taken into consideration."

Mr. SPEAKER.—Motion moved :

"That the Mysore Land Reforms (Amendment) Bill, 1970, be taken into consideration."

Sri K. H. PATIL.—Sir, if we have to continue the discussion, the time will have to be extended.

Mr. SPEAKER.—It is a good suggestion. I think some time was lost in discussing unconnected matters. I shall extend the time by one hour.

ಶ್ರೀ ಎಚ್. ವಿ. ಕೌಜಲಗಿ. —ಸಭಾಪತಿಗಳೇ, ಈಗ ಇದ್ದ ಮೈಸೂರು ಭೂ ಸುಧಾರಣಾ ಕಾಯ್ದೆ ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ 1965ನೇ ಇಸವಿಯಿಂದ ಅಮಲಿನಲ್ಲಿದೆ. ಅಮಲ್ ಬಜಾವಣೆಯ ಕಾಲಕ್ಕೆ ಕೆಲವು ಕಾಯ್ದೆಯ ಲೋಪದೋಷಗಳಿದ್ದವು ಕಂಡುಬಂದಿದೆ ಮತ್ತು ಈಗ ಇದ್ದ ಕಾಯ್ದೆ ಪ್ರಕಾರ ಅದನ್ನು ಅಮಲ್ ಬಜಾವಣೆ ಮಾಡುವುದರಲ್ಲಿ ತೀವ್ರಗತಿಯಿಂದ ಮಾಡಲಿಕ್ಕೆ ತೊಂದರೆಯಾಗುತ್ತದೆ ಎಂದು ಕಂಡು ಬಂದುದರಿಂದ ಕೆಲವು ತಿದ್ದುಪಡಿಗಳನ್ನು ಸೂಚಿಸಿದ್ದಾಗಿದೆ.

[MR DEPUTY SPEAKER in the Chair]

ಮೊದಲನೆಯದಾಗಿ ಈಗಿದ್ದ ಕಾಯ್ದೆಯಲ್ಲಿ ಯಾವುದೇ ಮಹತ್ತರವಾದ ಅಥವಾ ಫಂಡ ಮೆಂಟಲ್ ಚೇಂಜಸ್ ಮಾಡಿಲ್ಲ ಎಂಬ ಮಾತು ಮಾನ್ಯ ಸದಸ್ಯರು ಲಕ್ಷದಲ್ಲಿಡತಕ್ಕದ್ದು. ಈ ಕಾಯ್ದೆ ತರುವುದಕ್ಕೆ ಪೂರ್ವದಲ್ಲಿ ಇದೇ ತಿಂಗಳು 2-1-70ರಲ್ಲಿ ಇದನ್ನು ಆರ್ಡಿನೆನ್ಸ್ ಮುಖಾಂತರ ಪ್ರಸಿದ್ಧ ಮಾಡಲಾಯಿತು, ಅದನ್ನು ಈ ತಿಂಗಳ 15ನೇ ತಾರೀಖಿನ ದಿವಸ ಅಮಲಿನಲ್ಲಿ ತರಲಾಯಿತು. ಆವೃಷ್ಟಿಯಿಂದ ಇದಕ್ಕೆ ಒಂದು ಕಾಯ್ದೆ ಸ್ವರೂಪ ಪಡೆಯುವ ಸಂಬಂಧಿ ಆರ್ಡಿನೆನ್ಸ್ ತೆಗೆದು ಹಾಕಿ ಬಿಲ್‌ನ್ನು ತಂದದ್ದು ಆಗಿದೆ. ಈ ಮುಂಚಿತವಾಗಿ ಹೇಳಿದಂತೆ ಇದರಲ್ಲಿ ಇರುವ ಕೆಲವು ದೋಷಗಳನ್ನು ತೆಗೆದು ಹಾಕುವುದಕ್ಕೂ ಮತ್ತು ಈಗ ಜಗತ್ತಕ್ಕೆ ದಿಲೇ ದೂರ ಮಾಡಲಿಕ್ಕೂ ಇದನ್ನು ತರಲಾಗಿದೆ. ಇವಾದ ನಂತರ ಇದರಲ್ಲಿ ಕೆಲವು ಜ್ಯುಡೀಷಿಯರಿ ಫಂಕ್ಷನ್ಸ್ ಮತ್ತು ಕೆಲವು ಎಕ್ಸಿಕ್ಯೂಟೀವ್ ಫಂಕ್ಷನ್ಸ್ ಇವೆ. ಎಕ್ಸಿಕ್ಯೂಟೀವ್ ಫಂಕ್ಷನ್ ಈಗಿನ ಮುನ್ಸೀಫರು ಅಮಲ್ ಮಾಡುವುದಕ್ಕೆ ತೊಂದರೆಯಾದ್ದರಿಂದ ಅವುಗಳನ್ನು ಬೇರೆ ಬೇರೆ ಮಾಡಿದೆ; Judiciary functions to be exercised by the Munsiffs and executive functions to be exercised by the Tahsildars. ಹೀಗೆ ಇವುಗಳನ್ನು ಬೇರೆ ಬೇರೆ ಮಾಡುವುದು ಇದರ ಒಂದು ಉದ್ದೇಶ. ತಾವು ಇದರಲ್ಲಿ ನೋಡಬಹುದು, ಈಗಿದ್ದ ಕಾಯ್ದೆ ಕಲಂ 62,66,67,69,74,76, ಈ ಕಲಂಗಳಲ್ಲಿ ಇರತಕ್ಕ ಡ್ಯೂಟೀಸ್ ಎಕ್ಸಿಕ್ಯೂಟೀವ್ ಫಂಕ್ಷನ್ಸ್ ಆಗಿವೆ. ಆ ದೃಷ್ಟಿಯಿಂದ ಇವುಗಳನ್ನು ತಹಸೀಲ್ದಾರರಿಗೆ ಹಾಕಿದ್ದು ಆಗಿದೆ. ನಂತರ ಈಗಿದ್ದ ಕಾಯ್ದೆಯಲ್ಲಿ ಒಂದೆರಡು ಕಾಯ್ದೆ ದೋಷಗಳು ಕಂಡುಬಂದುವು. ಉದಾಹರಣೆ ಹೇಳಬೇಕೆಂದರೆ "who is the deemed tenant and who is a tenant" ಇವುಗಳನ್ನು ನಿರ್ಣಯ ಮಾಡಲಿಕ್ಕೆ ಮುನ್ಸೀಫ್ ಕೋರ್ಟಿಗೂ ಮತ್ತು, ಟ್ರಿಬ್ಯೂನಲ್‌ಗೂ ಎರಡಕ್ಕೂ ಅವಕಾಶ ಇತ್ತು, ಇದನ್ನು ಈಗ ಚಾಲಿಕಾಸಿಮಾಡಲಿಕ್ಕೆ ಒಂದು ಟ್ರಿಬ್ಯೂನಲ್ ಮತ್ತೊಂದು ಮುನ್ಸೀಫ್ ಕೋರ್ಟಿಗೆ ಹೋಗಬೇಕಾಗಿದ್ದುದನ್ನು ತೆಗೆದು ಹಾಕಿ ಒಂದೇ ಕೋರ್ಟಿನಲ್ಲಿ ನಿರ್ಣಯ ತೆಗೆದು ಕೊಳ್ಳಲಿಕ್ಕೆ ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟಿದೆ.

ಮೂರನೆಯದು ರೆಂಟ್ ಸೂಟ್ ಬಗ್ಗೆ ಟ್ರಿಬ್ಯೂನಲ್ ನವರು ನಿರ್ಣಯ ಕೊಟ್ಟರೆ ಯಾರು ವಸೂಲ ಮಾಡಬೇಕೆಂಬ ವಿಷಯದಲ್ಲಿ ಸಂದಿಗ್ಧ ಇದ್ದುದನ್ನು ತೆಗೆದು ಹಾಕಿ ರ್ಯಾಂಡ್ ರೆವಿನ್ಯೂ ಅರಿಯರ್ಸ್ ಅಂತ ತಿಳಿದುಕೊಂಡು ತಹಸೀಲ್ದಾರರೇ ವಸೂಲ ಮಾಡಬೇಕೆಂದು ಸ್ಪಷ್ಟಮಾಡಿದ್ದೇವೆ.

ನಾಲ್ಕನೆಯದು ಸೆಂಟ್ರಲ್ ಸರ್ಕಾರವು ಆದೇಶದ ಮೇರೆಗೆ ಈಗಿದ್ದ ಎಕರೆ, ಗುಂಟೆ ಇವುಗಳಿಗೆ ಬದಲಾಗಿ ಮೆಟ್ರಿಕ್ ಪದ್ಧತಿ ಪ್ರಕಾರ ಹೆಕ್ಟರ್ ಎಂಬ ಪದ ಉಪಯೋಗ ಮಾಡಬೇಕೆಂದು ಮಾಡಿದ್ದೇವೆ. ಇದರಿಂದ ಜನರಿಗೆ ಸ್ವಲ್ಪ ತೊಂದರೆಯಾಗುತ್ತದೆ. ಆದರೆ ಇಡೀ ದೇಶದಲ್ಲಿ ಒಂದೇ ರೀತಿಯಾದ ವ್ಯವಸ್ಥೆ ಇರಬೇಕೆಂದು ಕೇಂದ್ರಸರ್ಕಾರವು ಒಂದು ಆದೇಶ ಇದ್ದದ್ದರಿಂದ ಈ ಪ್ರಕಾರ ಹೆಕ್ಟರ್ ಅಂತ ಹೇಳಿ ಇಟ್ಟದ್ದು ಆಗಿದೆ. ಹೊಸದಾಗಿ ನಮ್ಮಾ ಹೈಸೆ ಪದ್ಧತಿ ಬಂದಾಗ ಸ್ವಲ್ಪ ತೊಂದರೆಯಾಯಿತು, ಅದೇ ರೀತಿ ಇದು ಸರಿಹೋಗಲು ಕೆಲವು ದಿವಸ ಆಗಬಹುದು.

ನಾನು ಮೊದಲೇ ಹೇಳಿದಂತೆ ಈ ಮಸೂದೆಯಲ್ಲಿ ಮೂಲಭೂತವಾದ ಬದಲಾವಣೆ ಏನೂ ಇಲ್ಲ. ಇದ್ದ ಕಾಯ್ದೆಯನ್ನೇ ಇಟ್ಟುಕೊಂಡಿದ್ದೇವೆ. ಅಮಲುಬಜಾವಣೆಯಲ್ಲಿ ಏನು ದೋಷ ಇತ್ತು ಅದನ್ನು ತೆಗೆದು ಹಾಕಲಿಕ್ಕೆ ಮತ್ತು ಜುಡೀಷಿಯರ್ ಫಂಕ್ಷನ್ಸ್ ಎಕ್ಸಿಕ್ಯೂಟೀವ್ ಫಂಕ್ಷನ್ಸ್ ಬೇರೆ ಬೇರೆ ಮಾಡಿ ಜುಡಿಷಿಯರ್ ಫಂಕ್ಷನ್ಸ್‌ನ್ನು ಟ್ರಿಬ್ಯೂನಲ್ಸ್‌ಗೂ ಎಕ್ಸಿಕ್ಯೂಟೀವ್ ಫಂಕ್ಷನ್ಸ್‌ನ್ನು

ತಹಸೀಲ್ದಾರರಿಗೂ ಕೊಟ್ಟಿದೆ. ಮತ್ತು ಎಲ್ಲೂ ಡಿಲೇ ಆಗಬಾರದು ಎಂಬ ಉದ್ದೇಶವನ್ನು ಇಟ್ಟುಕೊಂಡು ಇದನ್ನು ಮಾಡಿದ್ದಾಗಿದೆ. ಹೈಕೋರ್ಟಿನ ಸಲಹೆಯನ್ನೂ ಕೂಡ ತೆಗೆದುಕೊಂಡಿದ್ದೇವೆ, ಅವರು ಈ ತಿದ್ದುಪಡಿಗೆ ಒಪ್ಪಿಗೆ ಕೊಟ್ಟಿದ್ದಾರೆ ಮತ್ತು ಇದಕ್ಕೆ ಬೇಕಾಗುವಂತಹ ಪ್ರುಸಿಡೆಂಟರ ಅನುಮತಿಯನ್ನೂ ಸಹಿತ ತೆಗೆದುಕೊಂಡಿದ್ದಾಗಿದೆ. ಆ ದೃಷ್ಟಿಯಿಂದ ಮಾನ್ಯ ಸದಸ್ಯರು ಇದಕ್ಕೆ ಒಪ್ಪಿಗೆ ಕೊಡಬೇಕೆಂದು ವಿನಂತಿ ಮಾಡುತ್ತೇನೆ.

† **Sri G. AMARE GOWDA** (Sindhnoor).—Mr. Speaker Sir, so far as the purpose of the Mysore Land Reforms (Amendment) Bill, 1970 is concerned it is mentioned in the statement of objects and reasons that it is merely to avoid the delay. That the executive and judiciary powers have been separated. Though the idea is that it will reduce delay, I feel, it will rather increase the deley. A Tribunal passing a decree or order has to be executed by another officer, *i.e.*, either Tahsilder, Collector, Deputy Commissioner, etc. The party will have to take a number of copies, and he has to rush to various departments to get records, etc , and this will certainly cause delay. Therefore. I feel that these powers should have been given to the same authority which passes a decree or an order. The powers to execute decree or order should be given to the same judicial officers who pass a decree or order, instead of dividing the powers between different authorities.

With regard to ceiling and other aspects of land reforms, they have not made any change. They have only changed 'standard acres' into 'standard hectares'. But they could have made some more amendments. That is what my hon. friends Sri Nagappa, Sri D. B. Kalmankar and Sri V. N. Patil said. Provision to section 63 says:

> "Provided that where the number of members of the family of such person or of the joint family of which such person is a member exceeds five, he or the joint family, as the case may be, may hold six additional standard acres, for each member in excess of five, so however as not to exceed twice the ceiling area in the aggregate."

What is the criteria for determining the number of members of a joint family? In the revenue records, there is no scope to show whether one is a member of a joint family or he belongs to a different family. There is no record in the pahani to show that one is a minor or he belongs to any other family. There is scope for a landlord to defeat the provisions of law and he may increase the ceiling in that way. Section 66 (2) says:

> "Without prejudice to the provisons of sub-section (1), the Tribunal shall have power to issue notice requiring any person who, it has reason to believe, holds land, or resides within its jurisdiction to furnish to it a declaration of all lands held by him... "

How could the Tribunal find out that a person holds land in excess of the ceiling? There should be some means by which the Tribunal should find out this information. So far as purchase price is concerned,

(SRI G. AMARE GOWDA)

Section 75 says :

"(2) The purchase price shall be the aggregate of (i) such amount as the Tribunal may determine as being equal to ten times the average net annual income in respect of the land."

It is unscientific way of determining the purchase price. They could have followed a scientific system. There is land revenue or water rate which is a fixed one. They could have said that the purchase price will be so many times the land revenue or water rate. On that basis, price could have been fixed. Then suppose in a particular year, there is drought. How can you pay instalment in that year? So, a provision has to be made that if there is failure of crop or anything of the sort, payment of instalment should be postponed. The landlords have enjoyed the land for so many years. So, I have fundamental objection to payment of price to them. The land should have been given free to the agriculturists. If necessary, the Government may pay it. With these words, I oppose the Bill.

6-30 P. M.

† SRI L. SRIKANTIAH (Nanjangud).—Sir, I think we are considering a very important amendment Bill of a far-reaching character. I could appreciate the anxiety on the part of the Government for the speedy implementation of the land reforms. But I am sorry to say that the way they have chosen and the way they want to expedite the implementation of the land reforms, are quite unsatisfactory, for the following reasons :

I believe my Learned Friend the Hon'ble Minister for Revenue was a Lawyer and I hope he will be in the profession for ever. I do not know whether he is in touch with the courts of law at present and holding briefs attending to the courts. I say as a lawyer that in his spare time, he never attended land tribunals in his place. If he had attended, he would have actually come to know the real difficulty in working the land reforms and the problems the tribunals are facing and the clients are facing. I am very sorry to say that this amendment Bill does not reflect the real grievances and the bottlenecks in the imple nentation of the Land Reforms Act. I wish before this Amendment Bill was framed, the concerned Revenue authorities and in particular the Hon. Minister for Revenue had consulted some lawyer who had briefs in the Tribunals and also those who have some practical difficulties on the appellate side in High Courts and those who were dealing with the problems that arise every day in this respect. In fact the amendments suggested are not in consonance with the reality of the problems we are facing before the Tribunals, the Civil Courts and the Hon'ble High Court of Mysore. This has resulted in a paper amendment. Probably the Secretariat Officers themselves thought that they

knew the real grievances and so they made these amendments. Well they have the majority and any suggestions made to the Hon,Minister for Revenue will not be accepted and the Hon. Speaker in the House will ask Members to say AYE or NAY and finally say 'Ayes will have it,.. If that is the fate of the legislation, I am sorry at the way in which you are going to confer powers or redress the real grievances of the people.

My learned friend the Hon'ble Mr. Koujalgi was pleased to divide his introduction into four parts. He said that Government had introduced the amendment to avoid delay ; they have tried to separate judicial functions from the executive functions some doubts were entertained as disclosed in the judgement of the Hon'ble High Court in regard to actual tenant and deemed tenant and clause 4 was struck down in a recent decision. My Learned Friend the Hon. Minister seems to be of the view that as a corrollary if section 116 of the Land Reforms Act and also the definition clause are amended, it would bring about the necessary remedy. He was pleased to point out about the rent recovery. He was pleased to say that there was no excutive machinery so far as the tribunal is concerned and he says that through this amendment of the Bill, he has conferred the power on the Thasildar who is the excutive authority. I shall presently point out how the whole thing is a mess and a contradiction in terms when I refer to section 116 of the Land Reforms Act. Lastly, my Learned Friend was pleased to draw attention to the uniform standard which had to be adopted by adopting the term hectors. I am not very much concerned with that, they may have hectors or anything they please.

I shall refer to the separation of duties and the doubts enterained and how far and to what extent, through these amendments, Government has really thought of expediting the Land Reforms. The other day, I happened to meet Sri Kadidal Manjappa who is the ex-Revenue Minister and I incidentally happened to tell him: please do not constitute these tribunals; if you have any idea to implement land reforms, let us not have multiplicity of jurisdiction, please confer the same power on civil courts. He was pleased to say in a casual way that in these civil courts, they will be sticking to the law and rule of evidence. This is a very practical legis ation. It is only the Asst. Commissioners and Tahsildars who are very well versed with land reforms, and they should be entrusted with this duty. If that is done, probably there will be speedy disposal of files. May I remind my learned friend the Minister for Revenue that rent recovery cases instituted in the year 1955 are still pending with the Tahsildar of T. Narsipur for 7 to 8 years. It is not the fault of the Tahsildar. After all, Tahsildar is a big ASS and that unfortunate ASS has to carry every burden imposed by the Government. One important duty that he has to do is to give dancing attendance to every Minister who comes there. At the beck and call of superior officers, he must rush up to the mofussil places. Every social or other legislation that is passed will impose some duty on the Tahsildar and he will have to enforce it. Practically

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he will have no time to attend to any cases pending on the file. When we go to the courts, the clerk of the Thasildar's office will say: I am very sorry the Tahsildar is not in town. The Deputy Commissioner has come and he has gone with him. So your cases are adjourned. I have seen the order sheet running to 25 pages saying 'the case adjourned'. Tahsildar is always otherwise engaged. What should the lawyers do and what should the clients do ? I have a client by name Mr. Joseph. He has been agitating before the court of the Thasildar for the past 8 years and still his case is not decided. This is the fate of the ordinary litigants. And through this grand legislation again the whole burden is sought to be imposed on that proverbial animal and he again is being burdened in the name of the separation of judicial functions from the executive functions. Do you really expect speedy disposal of land reforms cases through him ? You have already burdened that ASS with other duties and he has actually no time to discharge them. If you want really to expedite it, what is the necessity of transferring the executive power from the tribunal to the tahsildar ? What is the justification, as if the civil courts have no executive branch of their own. They have got a separate department of their own. Do you mean to say that the Munsiff who is presiding over the court cannot discharge his executive functions ? It is just for that purpose that I sent purposely an amendment to substitute Asst. Commissioner for Thasildar, not that I am very particular of the Asst. Commissioner. Through my amendment I only wanted to draw the attention of the Hon'ble Minister to the fact that we are not actually rectifying any defect by the amendments proposed by Government in this Bill.

Now I shall read section 116:

> "116. Executive of order for payment of money or for restoring possession.
>
> (1) Any sum the payment of which has been directed by an order of the Tribunal including an order awarding costs shall be recoverable from the persons ordered to pay as an arrears of land revenue.
>
> (2) An order the Tribunal awarding possession or restoring the possession or use of any land shall be executed in the same manner as an order passed by a revenue officer under the Mysore Land Revenue Act 1964."

Please see the amendment to Clause 16. What a contradiction it is; Clause 16 is substitution of new section for Section 116. Please see where we land ourselves. It says: "Every order of the court be executed as if it were a decree of the Civil Court." Now the old section is amended. This is a decree passed by the Civil Court. This new amended section does not say that an order of the court shall be taken

to the Tahsildar for execution. Therefore, I have bifurcated the function. The Government have stated that they have separated the judiciary and the executive. So far as the recovery of rent is concerned, the Civil Court alone must execute it because it is stated in the new clause, as 'decree.' The Civil Court is again burdened with executive duty. The Government's statement that the executive function is transferred from the Judiciary to the Executive is not true.

Let me come to the second point, the scheme of Legislation, and point out the absurdity of the Amendment. I will show to you that it is bundle of contradiction. Please see Clause 3 which reads as :

> "Substitution of the expression 'Court' for the expression 'Tribunal' in Mysore Act 10 of 1962. In the principal Act, except in sections 62, 66, 67, 69, 74, 76, 77, 78 79, 124, 128, 130, 131, 132, and 134 for the word 'Tribunal' wherever it occurs, the word 'Court' shall be substituted."

Therefore. for all the sections excepting those mentioned in Clause 3, it is stated, that the word "Court" shall be substituted for the word "Tribunal." Okay. But, later on in Clause 6, it is stated that "In section 62 of the principal Act, for the word "Tribunal", the word "Tahsildar" shall be substituted." Government's intention is to transfer the ceiling declarations and duties connected with the ceiling, to be done by the Tahsildar. According to the Government, it appears to be executive function. With regard to the delay, I shall come later. I have shown that as per the statement of the Government itself, there is no absolute bifurcation of judicial functions from the executive functions ; the Civil Court is still burdened with the executive functions. For instance, let us take the execution of rent decree. The Tahsildar is made what is called a person who is in charge of receiving applications for disposal of surplus ceilings. I have already pointed out that even under the old Tenancy Act, the Tahsildar was unable to discharge his duties because of the reasons I have already stated. The Government is imposing additional burden on this Tahsilder. Can he do it ? I would have welcomed the suggestion if it had been stated : There shall be a special Tahsildar who shall hold Court without fail from 11 A.M. to 5 P.M. for at least three days in a week, whoever be the Minister or Officer that may come ; he shall not go away from his headquarters on those days and he shall deliver the judgement that week itself. If that condition had been stipulated, I would have certainly welcomed the suggestion and I would have accepted it. The Tahsildar should have been made to hold the Court compulsorily. This is not the spirit of the legislation. For paper's sake, the duties are cast on the Tahsildar. There is no guarantee that the Tahsildar will hold the Court on the days of hearing. Therefore, I suggested that instead of the world "Tahsildar", the word "Assistant Commissioner" be substituted. In fact, purposely I suggested the amendment that the Assistant Commissioner should be made the person to dispose of these applications coming under certain sections. If the Government

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wants us to accept the Tahsildar as the person to discharge those duties in regard to the ceiling applications, impose the condition that he shall hold the Court for three days in a week without fail. Appoint a Special Tahsildar for this very purpose.

I am more anxious than the Government that the Land Reforms Act is implemented. I have told you of instances where applications before a Tahsildar have been pending for the past eight years. If the Minister is prepared to accompany me, I shall show him my client Joseph who has been loitering before the Tahsildar, Srirangapatna, for the past 8 years without recovering a single paise. Therefore, I am very sorry to say that the mode adopted is not conducive to cut down delay, for this purpose. I wish the Government would realise that too much duplication and too many jurisdictional authorities is dangerous. This is the time when we can make suggestions and therefore, my time may not be curtailed by the Chair. I am anxious to contribute substantially so that we may bring some legislation which is wholesome.

Now I come to the next aspect. Here we come to a very important issue and I think I have to go rather slowly here. In section 2, item 34 tenant means an agriculturist, it means both contractual as well as deemed tenant. We come to section 4. That is an important section which deal with persons to be deemed tenants. Section 4 does not deal with contractual tenants. This distinction between contractual and deemed tenant came into being ever since the decision of the full bench of the Bombay High Court in 1957. The Supreme Court has held that deemed tenant is one who is the lawful owner of the property, whether contractual tenant or not. A case came up before our High Court while interpreting section 112—duties of tribunal came into consideration—to decide whether a person is a tenant or not, under section 4 and make declaration accordingly. What is attempted to be done is to delete section 112 (b). The definition clause and section 4 are to be retained. I want to know first, when section 112 (b) is deleted, Duties of Tribunal—whether it will be the duty of the tribunal to make a declaration, whether contractual or deemed tenancy. Where is any section in the Act empowering the court itself to declare that a person is tenant, either contractual or deemed tenant. That is a moot point in the Bill. To overcome one difficulty you are falling into another difficulty. Your difficulty was that the High Court held that section 112 (b) read with section 4, dealt with only deemed tenants and therefore they could not deal with contractual tenants. The legal Adviser probably thought that to overcome the difficulty section 112 (b) could be deleted. Your object is to see that the tenant of the person is protected and the person shall seek a declaration in a court of law. Section 4 deals with only deemed tenancy. I am dilating with a case of contractual tenant. Here comes the important distinction between contractual tenant and deemed tenant. A contractual tenant is one who

takes land and leases it to another person either orally or by instrument. After the implentation of the Mysore Act, he is not a contractual tenant; he is only in lawful possession of the property. That is all; because that is the distinction made between the contractual tenant and the deemed tenant. I can give the Minister the whole citation of authorities to show how distinction is made by the Supreme Court between the deemed tenant and contractual tenant. I shall pass on the decisions tomorrow. If you say that section 112 b) should be removed, my straightaway question is where is another enabling section in the Act for a person who wants to seek declaration, *i.e.*, contractual tenant? The amendment is silent about it. Section 4 deals with only deemed tenants. The word deemed tenant has a technical meaning in law. It cannot be a contractual tenant. What is the releif given to the contractual tenant? I am unable to see any light in the amending Bill. You are forcing the people to go on writ petitions or revision petition before the High Court for redefining what is contractual and what is deemed tenant. That is my fundamental objection. Please re-examine these provisions because this is a delicate issue. Your object is to see protection is given to all tenants and not only to deemed tenants. Further, please re-examine the definition to sub-clause 34 of section 2, section 4 and 112 (b) and bring in suitable amendments so that there may not be conflict of decisions by the High Court.

Next is rent recevery. My friend was pleased to solve this difficulty. He said that the moment an order is passed by Tahsildar, it will be executed as the arrears of land revenue. I have pointed out that section 116 is amended and you have substituted a new section. A decree as per your own amendment, is a decree of a court and there is operative clause to say that it should be executed by the Tahsildar. Therefore, again there is doubt. If a rent-decree is passed by the court, according to your own statement that court has no power to execute and there being no provision in the Act as to how it should be executed, how are you going to execute it. That doubt is still there. You have not said that the Tahsildar is empowered to execute the rent decree as if it is the arrears of land revenue. As I have already pointed out, there is absolutely no separation of judiciary and executive functions. I am prepared to agree with the hon. member Sri Amare Gowda when he said that if your object is that there should be clear separation of executive and judicial functions, it should be made clear in the Act. The function of a court is to give judgment and it is transferred to Revenue Department for execution.

Mr. DEPUTY SPEAKER.—Please conclude early.

Sri K. H. PATIL.—Sir, we cannot take the half-an-hour discussion today. I wanted you to fix up another day for it. You extended the time up to 7 P.M. and any proceedings after that will not be legal.

Mr. DEPUTY SPEAKER.—Please read rule 49.